

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ANTHONY GAY, B-62251,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 08-523-GPM
)	
REKESH CHANDRA, KENNETH)	
BARTLEY, GREG LAMBERT, ALAN)	
REAGAN, HOMER MARKEL, CLAUDIA)	
KACHIGIAN, KATHERINE CLOVER, and)	
the ILLINOIS DEPARTMENT OF)	
CORRECTIONS,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

Plaintiff, Anthony Gay, sued these defendants in state court alleging he received inadequate healthcare while he was incarcerated by the Illinois Department of Corrections. Defendants, Claudia Kachigian, M.D. and Katherine Clover, then removed the case to this Court. A week later, the remaining non-removing Defendants, Kenneth Bartley, Alan Reagan, Homer Market, Greg Gossett, and the Illinois Department of Corrections, filed a motion to remand (Doc. 5) on the grounds they did not consent to the removal. In response to the motion to remand, the removing defendants do not address this commission; rather, they ask the Court to sever their claims and “retain” jurisdiction.

In order to effect removal, all defendants must join in a removal petition. *Northern Illinois Gas Company v. Airco Industrial Gases, a Division of Airco, Inc.*, 676 F.2d 270, 272 (7th Cir. 1982),

citing Chicago, Rock Island & Pacific Railway Co. v. Martin, 178 U.S. 245, 248 (1900). “Because it is incumbent upon a party petitioning to remove a state court case to federal court to allege in the petition ‘a short and plain statement of the facts which entitle’ him to remove, 28 U.S.C. § 1446(a), a petition filed by less than all of the named defendants is considered defective if it fails to contain an explanation for the absence of co-defendants.” *Northern Illinois Gas Company*, 676 F.2d at 273; *see also P.P. Farmers Elevator Co. v. Farmers Elevator Mutual Insurance Co.*, 395 F.2d 546, 548 (7th Cir. 1968) (“The verified petition for removal must state the facts entitling petitioner to remove and ‘where the suit involves multiple defendants and one or more of the defendants does not join in the petition, better practice dictates that the petition expressly indicate why, e.g., that he is a nominal party or was not served at the time of filing the petition.’”)

Because the removing defendants did not obtain the consent of all the defendants before removing the case or otherwise explain their absence, the petition for removal is defective. Therefore, the Court has no jurisdiction over this case and it must be remanded. The Court also notes that because it lacks jurisdiction, it may not consider whether severing any of Plaintiff’s claims is appropriate.

Accordingly, the Court **GRANTS** the non-removing defendants’ motion to remand (Doc. 5) and **REMANDS** the case to the Circuit Court for the Twentieth Judicial Circuit of Illinois, Alexander County, Illinois.

IT IS SO ORDERED.

DATED: 10/22/08

s/ G. Patrick Murphy
G. PATRICK MURPHY
United States District Judge